

Decision **PROPOSED DECISION OF ALJ ROSCOW** (Mailed 2/20/2018)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2017 (U39M).

Application 15-09-001

**DECISION RESOLVING COMPLIANCE ISSUE  
REGARDING AUDIT OF PACIFIC GAS AND ELECTRIC COMPANY  
RULE 20A UNDERGROUNDING PROGRAM**

**Summary**

This decision resolves an issue left open by Decision (D.) 17-05-013, the primary decision addressing this Application. The joint proposal submitted by Pacific Gas and Electric Company (PG&E) and the City of Hayward for an audit of PG&E's Rule 20A undergrounding program in compliance with D.17-05-013 is approved, with modifications. A competitive solicitation process should be used to select the auditor. The audit shall be completed within 9 months from the time a contract for the work is executed by PG&E and the selected auditor. The Commission's Energy Division's role in overseeing the audit is clarified.

Application 15-09-001 remains open.

**1. Background**

In Application (A.) 15-09-001 Pacific Gas and Electric Company (PG&E) submitted its 2017 General Rate Case to the Commission, seeking authority to

increase rates effective January 1, 2017. In Decision (D.) 17-05-013, the Commission adopted revenue requirements for PG&E's 2017 test year and 2018-2019 attrition years. D.17-05-013 reached these results by approving a settlement agreement between active parties that resolved most issues in the proceeding. With respect to PG&E's requests regarding its Rule 20A undergrounding program, the Commission approved the settled-upon budgets and work credit allocations for the program. However, the Commission also determined that an audit of the program is necessary to ensure that PG&E has fully accounted for annual Rule 20A budgeted amounts and that localities will receive the full benefit of these funds.<sup>1</sup> The Commission directed PG&E, the City of Hayward (Hayward), and Commission staff to meet and confer in order to determine a joint estimate of the scope and funding required for such an audit, and ordered PG&E and Hayward to jointly file and serve that estimate. The Commission also specified that the assigned Commissioner and assigned Administrative Law Judge (ALJ) would determine further procedural steps following receipt and review of the audit scope and funding estimate.<sup>2</sup> This decision establishes those next steps regarding initiation and completion of the audit.

## **2. The Joint Proposal**

PG&E and the Hayward filed and served their joint proposal on July 10, 2017 (Joint Proposal). The Joint Proposal includes a proposed audit scope that matches the Commission's directives in D.17-05-013:

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<sup>1</sup> D.17-05-013, Conclusion of Law 7.

<sup>2</sup> *Id.*, Ordering Paragraph 8.

1. Ensure that PG&E has fully accounted for annual Rule 20A budgeted amounts;
2. Ensure that localities will receive the full benefit of these funds;
3. Assess PG&E's progress in implementing the steps it has taken to increase its capability to perform Rule 20A conversions;
4. Assess PG&E processes to verify the eligibility of Rule 20A projects; and
5. Assess reliability of Rule 20A project cost estimates.<sup>3</sup>

PG&E and Hayward provide a list of objectives they propose be included within each of the five scoped items listed above (*See*, Attachment A to the Joint Proposal).

PG&E and Hayward also recommend the following:

- A review period spanning five to ten years is appropriate in order to provide the auditor “flexibility to balance data and information availability against the needs of the audit considering the often long life span of a Rule 20A project, from start to finish”;
- The audit should be completed within 180 days from the time a contract for the work is executed by PG&E and the selected auditor;
- The Commission should set a “not to exceed” budget of \$1 million for the total cost of the audit;
- Regarding the auditor selection process, the Commission should allow PG&E and Hayward to continue to work together to determine a list of recommended independent firms.
  - Once the list is compiled, both parties would solicit and review proposals from the recommended firms. PG&E and Hayward state that they expect they would be able to

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<sup>3</sup> *Id.* at 75-76.

reach consensus on the independent firm to be selected to perform the audit.

- Criteria to be considered in identifying recommended firms:
  - i. Previous experience in utility auditing;
  - ii. Capacity to handle an audit of the proposed scope in the allotted time; and
  - iii. Certified diverse suppliers, which are firms that have certification as women-; minority-; lesbian, gay, bisexual, and transgender-; or disabled veteran-owned.
- Once a firm is selected, PG&E and Hayward propose a joint meeting be held with the auditor, PG&E, Commission staff, and Hayward to discuss the scope of the audit in detail.

Finally, PG&E also notes that the Commission has opened Rulemaking (R.) 17-05-010, the “Order Instituting Rulemaking to Consider Revisions to Electric Rule 20 and Related Matters” (Rule 20 OIR). In the Rule 20 OIR, PG&E and other respondent utilities are mandated to perform a “programmatic and financial” audit of the administration of their respective Rule 20A programs, to be conducted by an independent firm in consultation with the Commission’s Energy Division and Utility Audit Finance & Compliance Branch. PG&E requests that the Commission allow PG&E to hire one independent firm or auditor to perform one audit, which will cover the scope required under both PG&E’s 2017 GRC decision and the Rule 20 OIR proceeding.<sup>4</sup> PG&E reasons that the audit pursuant to D.17-05-013 and the Rule 20 OIR audit will both focus on the Rule 20A program and have overlapping issues, as well as require significant commitments from PG&E and Commission resources.

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<sup>4</sup> Joint Proposal of PG&E and City of Hayward at 3.

**3. Discussion**

PG&E and Hayward are commended for their collaborative efforts to date. This decision adopts certain modifications to the Joint Proposal that are necessary in order to meet the Commission's directive in D.17-05-013 to ensure that PG&E has fully accounted for annual Rule 20A budgeted amounts and that localities will receive the full benefit of these funds. The required modifications are incorporated into the "Final Scope and Objectives to be Addressed in the Rule 20A Audit" provided in Attachment A of this decision. This decision also clarifies the role of Commission staff and addresses other matters raised in the Joint Proposal.

**3.1. Modifications to the Joint Proposal and Auditor Selection Process**

First, we have edited and expanded the list of objectives within each of the five scoped items in the Joint Proposal. Our intent here is to provide more specific language to ensure that the auditor thoroughly documents PG&E's historical budgeting and spending for the Rule 20A program. The list of objectives has also been modified to include demonstration of the ratemaking aspects of the Rule 20A program. Finally, the objectives regarding re-prioritization of Rule 20A budgeted amounts have been modified and expanded to require full demonstration of how PG&E documents and tracks re-prioritization decisions and movement of the related funding.

Second, regarding the role of Commission staff in overseeing this audit, we clarify that the Commission's Energy Division shall have complete responsibility for overseeing the audit, and shall consult with the Commission's Utility Audit Finance and Compliance Branch as necessary in order to fulfill that responsibility.

Third, we modify the “Auditor Selection Process” proposed by PG&E and Hayward. We find that a competitive solicitation process should be used to select the auditor in order to ensure that all stakeholders view the audit results as independent. This will affect the roles played by PG&E and Hayward during the selection process. The collaborative process between PG&E, Hayward and the Energy Division should continue in order to draft a Request for Proposals (RFP), including development of bid evaluation criteria and the weighting of those criteria. PG&E shall then issue the RFP. Only Commission staff shall be responsible for scoring proposals, interviewing bidders and selecting the winning bidder. At that point, PG&E shall enter into a contract with the winning bidder, and shall serve as the fiscal manager of the contract without exercising control over the design or conduct of the audit. Energy Division staff shall give direction to the auditor on an as-needed basis and determine the role of PG&E, Hayward, and other interested Rule 20A program participants with respect to review of the draft findings of the auditor and review of the auditor’s final report before it is formally filed with the Commission.

Fourth, the criteria to be considered for selection of the auditor should include two suggested by PG&E and Hayward, with a third addition:

- i. Previous experience in utility auditing;
- ii. Capacity to handle an audit of the proposed scope in the allotted time; and
- iii. Independence from PG&E and the City of Hayward.

With respect to the recommendation that the audit selection process should consider certified diverse suppliers, we further clarify that pursuant to the Commission’s General Order 156, PG&E and the other investor-owned utilities under our jurisdiction are encouraged to actively seek to procure or contract

goods and services from women-, minority-, disabled veteran- and/or lesbian, gay, bisexual and transgender-owned business enterprises.

Finally, regarding the budget for the audit, we decline to designate \$1 million as the “not to exceed” amount, in part because we do not want bidders to treat that amount as a “floor” for their bids. The RFP may note that PG&E and Hayward recommended that the budget not exceed this amount, and should include a bidder’s proposed budget as a scoring criterion. As required by D.17-05-013, PG&E shall pay for the audit using part of its authorized 2017 Rule 20A budget.<sup>5</sup>

### **3.2. Adopted Schedule**

The schedule provided below should be followed to draft and issue the RFP, select the winning bidder, finalize the contract, and commence and complete the audit:

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<sup>5</sup> D.17-05-013, Ordering Paragraph 9.

<b>Milestone</b>	<b>Date</b>
	<b>No later than:</b>
RFP drafted and finalized by Energy Division staff, PG&E and Hayward	85 days following the date of this decision
RFP issued by PG&E	90 days following the date of this decision
Bids due to PG&E	45 days following issuance of RFP
Commission staff scores bids, interviews top scoring bidders, and selects winner bidder	30 days following receipt of bids
Contract finalized and executed by PG&E and the winning bidder. Audit commences.	45 days following selection of winning bidder
Audit completed	Within 9 months from the time the contract for the work is executed by PG&E and the auditor selected by the Energy Division

### **3.3. PG&E’s “Single Auditor” Request**

We deny PG&E’s request that the Commission allow PG&E to “hire one independent firm or auditor to perform one single audit, which will cover the scope required under both PG&E’s 2017 GRC decision and the Rule 20 OIR proceeding.” The audit required by D.17-05-013 is a distinct and unique compliance item for PG&E, which the Commission imposed out of concern over whether PG&E was managing the program properly.<sup>6</sup> As such, that audit must be fully in compliance with the Commission’s specific directives in D.17-05-013. We do not wish to burden PG&E, Commission staff, or the selected auditor with the task of managing the timing and logistics of this audit while trying to avoid conflating the two separate scopes, especially since at this time the details

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<sup>6</sup> D.17-05-013 at 63.

regarding the scope of the Rule 20 OIR audit have not been determined by the Commission.

#### **4. Assignment of Proceeding**

Michael Picker is the assigned Commissioner and Stephen C. Roscow is the assigned ALJ in this proceeding.

#### **5. Comments on Proposed Decision**

The proposed decision (PD) of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by PG&E on March 12, 2018. No reply comments were filed. PG&E requested modifications to the procedural schedule provided in the PD, which are reasonable and are reflected in the revised schedule adopted herein. PG&E also requested clarification of (1) the process for developing bid evaluation criteria during the RFP drafting process, and (2) clarification that this decision is adopting the final scope of the audit, with no future milestones necessary to "finalize" the scope. These requested clarifications are also reasonable and are reflected in the body of this decision, the adopted schedule, and a revised Ordering Paragraph 7.

#### **Findings of Fact**

1. In D.17-05-013 the Commission determined that an audit of PG&E's Rule 20A program is necessary in order to ensure that PG&E has fully accounted for annual Rule 20A budgeted amounts, and to ensure that localities will receive the full benefit of these funds.

2. After meeting and conferring with Commission staff, PG&E and Hayward filed and served a joint Rule 20A audit proposal on July 10, 2017.

3. In order to ensure that the results of the audit are in compliance with D.17-05-013, the auditor should be independent of both PG&E and Hayward.

4. Pursuant to the Commission's General Order 156, PG&E and the other investor-owned utilities under our jurisdiction are encouraged to actively seek to procure or contract goods and services from women-, minority-, disabled veteran- and/or lesbian, gay, bisexual and transgender-owned business enterprises.

5. PG&E and Hayward propose that the total cost of the audit should not exceed \$1 million.

6. PG&E and Hayward propose that the audit be completed within 180 days from the time a contract for the work is executed by PG&E and the selected auditor, with PG&E authorized to request that the Commission extend the audit deadline on behalf of the auditor.

### **Conclusions of Law**

1. A competitive solicitation process should be used to select the auditor to conduct the audit of PG&E's Rule 20A undergrounding program in compliance with D.17-05-013.

2. The Commission's Energy Division, PG&E and Hayward should collaboratively draft an RFP, and PG&E should issue the RFP.

3. The criteria listed below should be considered in selection of the auditor:

- i. Previous experience in utility auditing;
- ii. Capacity to handle an audit of the proposed scope in the allotted time; and
- iii. Independence from PG&E and the City of Hayward.

4. The auditor selection process provided in Section 3 of this decision should be adopted.

5. Commission staff should be responsible for reviewing bids and selecting the winning bidder, and overseeing the audit.

6. The objectives listed in the “Final List of Scope and Objectives to be Addressed in the Rule 20A Audit” in Attachment A of this decision should be addressed in the audit.

7. D.17-05-013 requires that PG&E pay for the audit using part of its authorized 2017 Rule 20A budget.

8. PG&E should serve as the fiscal manager of the contract with the auditor.

9. In its role as the fiscal manager for the contract with the auditor, PG&E should not have control over the design or scope of the audit.

10. The Commission should not approve PG&E’s request to hire one independent firm or auditor to perform a single audit of its Rule 20A program, which will cover the scope required under both D.17-05-013 and R.17-05-010.

## **O R D E R**

### **IT IS ORDERED** that:

1. A Request for Proposal process shall be followed to select the auditor to conduct the audit of Pacific Gas and Electric Company’s Rule 20A undergrounding program in compliance with Decision 17-05-013.

2. The auditor selection process outlined in Section 3 of this decision is adopted.

3. Commission staff shall review bids, select the winning bidder and oversee the audit.

4. The criteria listed below for consideration in selecting an auditor are adopted:

- i. Previous experience in utility auditing;
- ii. Capacity to handle an audit of the proposed scope in the allotted time; and
- iii. Independence from PG&E and the City of Hayward.

5. Pacific Gas and Electric Company (PG&E) shall enter into a contract with the winning bidder as provided in Section 3 of this decision. PG&E shall submit the final contract and audit budget to the Commission's Energy Division as a Tier 1 Advice Letter filing no later than 5 business days after the contract is executed.

6. Pacific Gas and Electric Company shall serve as the fiscal manager of the contract with the auditor, without exercising control over the design or scope of the audit.

7. The "Scope and Objectives to be Addressed in the Rule 20A Audit" provided in Attachment A of this decision is final and shall be addressed in the audit.

8. Pursuant to Decision 17-05-013 Pacific Gas and Electric Company shall pay for the audit using part of its authorized 2017 Rule 20A budget.

9. The Rule 20A audit shall be completed within 9 months from the time a contract for the work is executed by Pacific Gas and Electric Company (PG&E) and the auditor selected by the process adopted in this decision. PG&E is authorized to request that the Commission extend the audit deadline on behalf of the auditor.

10. The request of Pacific Gas and Electric Company to hire one independent firm or auditor to perform a single audit of its Rule 20A program, which will cover the scope required under both Decision 17-05-013 and Rulemaking 17-05-010 is denied.

11. Application 15-09-001 remains open.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**Attachment A**

**Final Scope and Objectives to Be Addressed  
in the Rule 20A Audit Ordered in D.17-05-013**

**The scope of the audit shall include items numbered 1-5 below, and the objectives listed under each scoped item:**

- 1. Ensure that PG&E has fully accounted for annual Rule 20A budgeted amounts by documenting that PG&E has properly allocated the entire budgeted amount approved in its General Rate Case (GRC) decisions.**
  - a. Budgeting. For each year covered by the audit:
    - i. Demonstrate PG&E's budgeting process for developing the Rule 20A budgets that are subsequently submitted to, and adopted by, the Commission in each GRC
      1. Document the assumptions and workpapers that support the budgeted amounts
    - ii. List the Rule 20A budget amounts adopted in each GRC
  - b. Spending. For each year covered by the audit:
    - i. Document how the annual budgets approved by the Commission are subsequently assigned to specific Rule 20A projects
    - ii. Document PG&E's annual spending, at the project level
    - iii. Provide a full breakdown of the annual program spending by FERC account and SAP account (labor, materials, overhead, etc.)
    - iv. Demonstrate that recorded spending is equal to Commission-approved, budgeted project amounts, or account for all variances
  - c. Ratemaking
    - i. Demonstrate how completed Rule 20A projects enter rate base
    - ii. Demonstrate how the revenue requirements associated with completed Rule 20A projects are incorporated into customer rates
    - iii. With respect to Rule 20A projects, and generalizing as necessary, demonstrate the relationship between PG&E's ratemaking accounting and PG&E's financial statement-related accounting
  - d. Re-prioritization. For each year covered by the audit:
    - i. Were Rule 20A budgeted amounts re-prioritized?
    - ii. If so, demonstrate (with supporting documentation) how PG&E decided to proceed with each specific re-prioritization. Identify the level of managers and officers that reviewed and approved each re-prioritization
    - iii. What were the project-specific budget amounts that resulted from re-prioritization throughout the year? (i.e., project-specific budget increases or decreases)

- iv. Demonstrate how re-prioritization of funds is documented and tracked in PG&E's FERC and SAP accounting systems

**2. Ensure that localities will receive the full benefit of Rule 20A funds**

- a. Allocations to Governmental Agencies
  - i. What is the process of allocating work credits to governmental agencies?
  - ii. What is the amount of work credits allocated to each governmental agency annually?
  - iii. What is the end of year ledger balance of governmental agencies?
  - iv. How does PG&E communicate work credits available to governmental agencies?
- b. Work Credit Usage by Governmental Agencies
  - i. What governmental agencies have not used work credit allocations and do not have any plans for an underground project?
  - ii. What governmental agencies have large accumulations of work credits?
  - iii. What governmental agencies are over-borrowed?
  - iv. What governmental agencies would like to do an undergrounding project, but have not built up enough work credits?
- c. Review of projects initiated, but not completed
  - i. List the projects that have been initiated, but not completed.
  - ii. Why have these projects not been completed?
- d. Project Completion
  - i. What is the process when a project is completed?
  - ii. How are the work credits applied to the ledger?

**3. Assess progress in implementing steps PG&E has taken to increase its capability to perform Rule 20A conversions**

- a. Assessment of the following:
  - i. Instituting a single contract to increase project efficiency with civil design and construction phases
  - ii. Establishing a cross-functional team to increase program understanding and share lessons learned to mitigate potential future risk
  - iii. Dedicating four full time employees to focus on customer requirements
  - iv. Establishing a single contractor to develop the service lateral books and perform service lateral work thereby increasing project efficiencies
  - v. Revising PG&E's General Conditions Agreement to facilitate the abilities of governmental agencies to get projects into the queue

- vi. All other provisions (not listed in (i) – (v) above) to assist governmental entities in the form of programs, staff support, and/or information available to municipalities undertaking underground conversion projects, especially to those who are struggling to complete projects.

**4. Assess PG&E processes to verify eligibility of Rule 20A projects**

What is the process for governmental agencies to initiate a project?

- a. What criteria does PG&E use to determine the eligibility of a project?
- b. How does PG&E ensure tariff requirements are met?
- c. What factors would make a project not eligible for Rule 20A funds?
- d. Are there instances that would make an eligible project change to be ineligible for Rule 20A funds? If so, what is the cause?

**5. Verify the reliability of Rule 20A project cost estimates (statistical sampling of projects for last 10 years, 2007-2016)**

- a. Review of PG&E's final project cost with approved design cost estimates
- b. Identify and quantify factors that contribute to cost variances

(End of Attachment A)